



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment II

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2009 LRB-1914/4 (For: Senator Darling)

has been copied/added to the drafting file for

2009 LRB-4045 (For: Senator Darling)

☞ Are These "Companion Bills" ?? ... No



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 12/22/2009 (Per: GMM)

☞ The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1914/1
GMM:bjk:ph

2009 BILL

1 **AN ACT to renumber and amend 48.357 (2r) and 938.357 (2r); to amend 48.293**
2 (2), 48.295 (1), 48.295 (3), 48.33 (5), 48.355 (2) (b) 2., 48.357 (1) (am) 1., 48.357
3 (1) (am) 2., 48.357 (1) (c) 1., 48.357 (2m) (a), 48.357 (2m) (b), 48.357 (2m) (b),
4 48.38 (4) (c), 48.78 (2) (a), 48.78 (2) (ag), 48.78 (2) (aj), 48.78 (2) (am), 48.78 (2)
5 (ap), 938.293 (2), 938.295 (1) (b), 938.295 (3), 938.33 (5), 938.355 (2) (b) 2.,
6 938.357 (1) (am) 1., 938.357 (1) (am) 2., 938.357 (1) (c) 1., 938.357 (2m) (a),
7 938.357 (2m) (b), 938.38 (4) (c), 938.78 (2) (a), 938.78 (2) (ag) and 938.78 (2) (am);
8 and **to create** 48.357 (2r) (b), 48.62 (3m) and 938.357 (2r) (b) of the statutes;
9 **relating to:** disclosure of the identity of a foster parent or treatment foster
10 parent of a child and the rights of a foster parent, treatment foster parent, or
11 other physical custodian of a child on removal of the child from the person's
12 home.

Analysis by the Legislative Reference Bureau

Under current law, a dispositional order of the court assigned to exercise jurisdiction under the Children's Code (juvenile court) that places a child outside the

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home must include the name of the place or facility where the child shall be cared for, except that the juvenile court may order the name and address of a foster parent or treatment foster parent to be withheld from a child's parent or guardian if the juvenile court finds that disclosure of that information would result in imminent danger to the child, the foster parent, or the treatment foster parent.

This bill provides that the name, other than the first name, and address of a person licensed to operate a foster home or treatment foster home may not be disclosed to the parent or guardian of a child placed in the home or to any other adult relative of the child without the written consent of the licensee.

Under current law, a child who is subject to a dispositional order of the juvenile court, the child's parent, guardian, or legal custodian, or any agency bound by the dispositional order (agency) may request a change in placement of the child. Currently, if the agency requests the change in placement, the agency must provide notice to the child, the child's parent, guardian, and legal custodian, and the child's foster parent, treatment foster parent, or other physical custodian stating the reasons for the change in placement, why the new placement is preferable to the current placement, and how the new placement satisfies the objectives of the child's treatment plan. A person who receives notice of such a change in placement may obtain a hearing on the change in placement by filing an objection to the change in placement.

Current law provides a slightly different procedure for when the child or the child's parent, guardian, or legal custodian requests a change in placement. In that case, the notice must state what new information affects the advisability of the current placement and a hearing must be held unless all parties waive their objections to the change in placement.

Under either procedure, if a hearing is held and the change in placement would remove the child from a foster home or treatment foster home or from the home of another physical custodian, the juvenile court must give the foster parent, treatment foster parent, or other physical custodian an opportunity to be heard by permitting that person to make a written or oral statement at the hearing or to submit a written statement prior to the hearing relating to the child and to the change in placement.

This bill expands the rights of a foster parent, treatment foster parent, or other physical custodian in connection with a change in placement proceeding. Specifically, the bill provides that, if a hearing is held and the change in placement would remove the child from a foster home or treatment foster home or from the home of another physical custodian in which the child has been placed for a total of four or more years, the foster parent, treatment foster parent, or other physical custodian may be represented by counsel, may inspect and copy, through counsel, all records that are relevant to the proceeding, may request that the child be examined or assessed by an expert of the foster parent's, treatment foster parent's, or other physical custodian's own choosing, may present evidence, including expert testimony, may confront and cross-examine witnesses, and may present alternative placement recommendations.

The bill also changes the standard for a change in placement requested by an agency by eliminating the requirement that the request show why the new

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placement is preferable to the current placement and instead requiring the request to show why the new placement would be in the best interests of the child. In addition, the bill changes the standard for a change in placement requested by the child or the child's parent, guardian, or legal custodian by eliminating the requirement that the request state what *new* information is available that affects the advisability of the current placement and instead requiring the request to state what information, new or old, is available that affects the advisability of the current placement and why the new placement would be in the best interests of the child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 SECTION 1. 48.293 (2) of the statutes is amended to read:
- 2 48.293 (2) All records relating to a child, or to an unborn child and the unborn
- 3 child's expectant mother, ~~which that are relevant~~ **who determines?** to the subject matter of a
- 4 proceeding under this chapter shall be open to inspection by a guardian ad litem or
- 5 counsel for any party ~~and to inspection~~, by the court-appointed special advocate for
- 6 the child, or by counsel for any foster parent, treatment foster parent, or other
- 7 physical custodian described in s. 48.357 (2r) (b), upon demand and upon
- 8 presentation of releases when necessary, at least ~~48 hours~~ **96 hours** before the proceeding.
- 9 Persons and unborn children, by their guardians ad litem, entitled to inspect the
- 10 records may obtain copies of the records with the permission of the custodian of the
- 11 records or with ~~the~~ permission of the court. The court may instruct counsel, a
- 12 guardian ad litem, or a court-appointed special advocate not to disclose specified
- 13 items in the materials to the child ~~or~~ the parent, ~~or to the expectant mother, or the~~
- 14 child's foster parent, treatment foster parent, or other physical custodian described
- 15 in s. 48.357 (2r) (b) if the court reasonably believes that the disclosure would be
- 16 harmful to the interests of the child or the unborn child.
- 17 SECTION 2. 48.295 (1) of the statutes is amended to read:

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SECTION 2

1 48.295 (1) After the filing of a petition and upon a finding by the court that
2 reasonable cause exists to warrant a physical, psychological, mental, or
3 developmental examination or an alcohol and other drug abuse assessment that
4 conforms to the criteria specified under s. 48.547 (4), the court may order any child
5 coming within its jurisdiction to be examined as an outpatient by personnel in an
6 approved treatment facility for alcohol and other drug abuse, by a physician,
7 psychiatrist, or licensed psychologist, or by another expert appointed by the court
8 holding at least a master's degree in social work or another related field of child
9 development, in order that the child's physical, psychological, alcohol or other drug
10 dependency, mental, or developmental condition may be considered. The court may
11 also order a physical, psychological, mental, or developmental examination or an
12 alcohol and other drug abuse assessment that conforms to the criteria specified
13 under s. 48.547 (4) of a parent, guardian, or legal custodian whose ability to care for
14 a child is at issue before the court or of an expectant mother whose ability to control
15 her use of alcohol beverages, controlled substances, or controlled substance analogs
16 is at issue before the court. The court shall hear any objections by the child or the
17 child's parents, guardian, or legal custodian, or the child's foster parent, treatment
18 foster parent, or other physical custodian described in s. 48.357 (2f) to the request
19 for such an examination or assessment before ordering the examination or
20 assessment. The expenses of an examination, if approved by the court, shall be paid
21 by the county of the court ordering the examination in a county having a population
22 of less than 500,000 or by the department in a county having a population of 500,000
23 or more. The payment for an alcohol and other drug abuse assessment shall be in
24 accordance with s. 48.361.

25 SECTION 3. 48.295 (3) of the statutes is amended to read:

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1 48.295 (3) If the child, the child's parent ~~or~~, the expectant mother, or the child's
2 foster parent, treatment foster parent, or other physical custodian described in s.
3 48.357 (2r) (a) objects to a particular physician, psychiatrist, licensed psychologist,
4 or other expert as required under this section, the court shall appoint a different
5 physician, psychiatrist, psychologist, or other expert as required under this section.

6 SECTION 4. 48.33 (5) of the statutes is amended to read:

7 48.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT;
8 CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment
9 foster home, and the name of the foster parent or treatment foster parent is not
10 available at the time the report is filed, the agency shall provide the court ~~and the~~
11 ~~child's parent or guardian~~ with the name and address of the foster parent or
12 treatment foster parent within 21 days after the dispositional order is entered. If the
13 foster parent or treatment foster parent has consented under s. 48.62 (3m) to the
14 disclosure of that information to the child's parent or guardian or to any other adult
15 relative of the child, the agency shall also provide that information to that parent,
16 guardian, or adult relative within those 21 days, except that the court may order the
17 information withheld from ~~the child's that parent or, guardian, or adult relative~~ if the
18 court finds that disclosure would result in imminent danger to the child or to the
19 foster parent or treatment foster parent. After notifying ~~the child's that parent or,~~
20 guardian, or adult relative, the court shall hold a hearing prior to ordering the
21 information withheld.

22 SECTION 5. 48.355 (2) (b) 2. of the statutes is amended to read:

23 48.355 (2) (b) 2. If the child is placed outside the home, the name of the place
24 or facility, including transitional placements, where the child shall be cared for or
25 treated, except that if the placement is a foster home or treatment foster home and

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SECTION 5

1 the name and address of the foster parent or treatment foster parent is not available
2 at the time of the order, the name and address of the foster parent or treatment foster
3 parent shall be furnished to the court and the parent within 21 days of the order. If
4 the foster parent or treatment foster parent has consented under s. 48.62 (3m) to the
5 disclosure of that information to the child's parent or guardian or to any other adult
6 relative of the child, the agency shall also provide that information to that parent,
7 guardian, or adult relative within those 21 days, except that the judge may order that
8 information to be withheld from the child's parent or guardian as provided in this
9 subdivision. If, after a hearing on the issue with due notice to the parent or guardian,
10 or other adult relative, the judge finds that disclosure of the identity of the foster
11 parent or treatment foster parent would result in imminent danger to the child, the
12 foster parent, or the treatment foster parent, the judge may order the name and
13 address of the prospective foster parents or treatment foster parents withheld from
14 the parent or guardian, or other adult relative.

15 SECTION 6. 48.357 (1) (am) 1. of the statutes is amended to read:

16 48.357 (1) (am) 1. If the proposed change in placement involves any change in
17 placement other than a change in placement specified in par. (c), the person or agency
18 primarily responsible for implementing the dispositional order, the district attorney,
19 or the corporation counsel shall cause written notice of the proposed change in
20 placement to be sent to the child, the parent, guardian, and legal custodian of the
21 child, any foster parent, treatment foster parent, or other physical custodian
22 described in s. 48.62 (2) of the child, the child's court-appointed special advocate,
23 and, if the child is the expectant mother of an unborn child under s. 48.133, the
24 unborn child by the unborn child's guardian ad litem. If the expectant mother is an
25 adult, written notice shall be sent to the adult expectant mother and the unborn child

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1 by the unborn child's guardian ad litem. The notice shall contain the name and
2 address of the new placement, the reasons for the change in placement, a statement
3 describing why the new placement is preferable to the present placement would be
4 in the best interests of the child, and a statement of how the new placement satisfies
5 objectives of the treatment plan ordered by the court.

6 SECTION 7. 48.357 (1) (am) 2. of the statutes is amended to read:

7 48.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of
8 a specific placement under s. 48.355 (2) (b) 2., other than a court-appointed special
9 advocate, may obtain a hearing on the matter by filing an objection with the court
10 within 10 days after receipt of the notice. Placements may not be changed until 10
11 days after that notice is sent to the court unless the parent, guardian, or legal
12 custodian and the child, if 12 years of age or over, or the child expectant mother, if
13 12 years of age or over, her parent, guardian, or legal custodian and the unborn child
14 by the unborn child's guardian ad litem, or the adult expectant mother and the
15 unborn child by the unborn child's guardian ad litem, sign written waivers of
16 objection, except that changes in placement that were authorized in the dispositional
17 order may be made immediately if notice is given as required under subd. 1. In
18 addition, a hearing is not required for placement changes authorized in the
19 dispositional order except when an objection filed by a person who received notice
20 alleges that ~~new~~ information is available that affects the advisability of the court's
21 dispositional order.

22 SECTION 8. 48.357 (1) (c) 1. of the statutes is amended to read:

23 48.357 (1) (c) 1. If the proposed change in placement would change the
24 placement of a child placed in the home to a placement outside the home, the person
25 or agency primarily responsible for implementing the dispositional order, the district

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1 attorney, or the corporation counsel shall submit a request for the change in
2 placement to the court. The request shall contain the name and address of the new
3 placement, the reasons for the change in placement, a statement describing why the
4 new placement ~~is preferable to the present placement~~ would be in the best interests
5 of the child, and a statement of how the new placement satisfies objectives of the
6 treatment plan ordered by the court. The request shall also contain specific
7 information showing that continued placement of the child in his or her home would
8 be contrary to the welfare of the child and, unless any of the circumstances specified
9 in s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency
10 primarily responsible for implementing the dispositional order has made reasonable
11 efforts to prevent the removal of the child from the home, while assuring that the
12 child's health and safety are the paramount concerns.

13 **SECTION 9.** 48.357 (2m) (a) of the statutes is amended to read:

14 48.357 (2m) (a) The child, the parent, guardian, or legal custodian of the child,
15 the expectant mother, the unborn child by the unborn child's guardian ad litem, or
16 any person or agency primarily bound by the dispositional order, other than the
17 person or agency responsible for implementing the order, may request a change in
18 placement under this paragraph. The request shall contain the name and address
19 of the new placement requested and shall state what ~~new~~ new information is available
20 that affects the advisability of the current placement ~~and why the new placement~~
21 would be in the best interests of the child. If the proposed change in placement would
22 change the placement of a child placed in the home to a placement outside the home,
23 the request shall also contain specific information showing that continued placement
24 of the child in the home would be contrary to the welfare of the child and, unless any
25 of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, specific information

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1 showing that the agency primarily responsible for implementing the dispositional
2 order has made reasonable efforts to prevent the removal of the child from the home,
3 while assuring that the child's health and safety are the paramount concerns. The
4 request shall be submitted to the court. In addition, the court may propose a change
5 in placement on its own motion.

6 SECTION 10. 48.357 (2m) (b) of the statutes is amended to read:

7 48.357 (2m) (b) The court shall hold a hearing on the matter prior to ordering
8 any change in placement requested or proposed under par. (a) if the request states
9 that new information is available that affects the advisability of the current
10 placement and why the new placement would be in the best interests of the child,
11 unless the requested or proposed change in placement involves any change in
12 placement other than a change in placement of a child placed in the home to a
13 placement outside the home and written waivers of objection to the proposed change
14 in placement are signed by all persons entitled to receive notice under sub. (1) (am)
15 1., other than a court-appointed special advocate, and the court approves. If a
16 hearing is scheduled, the court shall notify the child, the parent, guardian, and legal
17 custodian of the child, any foster parent, treatment foster parent, or other physical
18 custodian described in s. 48.62 (2) of the child, the child's court-appointed special
19 advocate, all parties who are bound by the dispositional order, and, if the child is the
20 expectant mother of an unborn child under s. 48.133, the unborn child by the unborn
21 child's guardian ad litem, or shall notify the adult expectant mother, the unborn child
22 by the unborn child's guardian ad litem, and all parties who are bound by the
23 dispositional order, at least 3 days prior to the hearing. A copy of the request or
24 proposal for the change in placement shall be attached to the notice. If all of the
25 parties consent, the court may proceed immediately with the hearing.

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Party affairs status that includes but are not limited to the following

SECTION 11. 48.357 (2r) of the statutes is renumbered 48.357 (2r) (a) and amended to read:

48.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the change in placement would remove a child from a foster home, treatment foster home, or other placement with a physical custodian described in s. 48.62 (2), the court shall give the foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) an opportunity to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing or to submit a written statement prior to the hearing relating to the child and the requested change in placement.

(c) A foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) who receives notice of a hearing under sub. (1) (am) 1. or (2m) (b) and an opportunity to be heard under ~~this subsection~~ par. (a) or (b) does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and opportunity to be heard.

SECTION 12. 48.357 (2r) (b) of the statutes is created to read:

48.357 (2r) (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the change in placement would remove a child from a foster home, treatment foster home, or other placement with a physical custodian described in s. 48.62 (2) ~~in which the child has been placed for a total of 4 or more years~~ 10 mos., the foster parent, treatment foster parent, or other physical custodian, in addition to having the opportunity to be heard as described in par. (a), may be represented by counsel, may request an examination or assessment of the child under s. 48.295 by an expert of the foster parent's, treatment foster parent's, or other physical custodian's own choosing, may present evidence relative to the issue of placement, including expert testimony, may

However if foster parent has has rights for 6 mos or more, rights under 48.64

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1 confront and cross-examine witnesses, and may make alternative placement
2 recommendations. In addition, counsel for the foster parent, treatment foster
3 parent, or other physical custodian may, notwithstanding s. 48.78 (2) (a), inspect and
4 obtain copies of all records relating to the child ~~that are relevant to the issue of~~
5 ~~placement as provided under s. 48.298~~ [With confidentiality concerns &
admonitions.]

6 SECTION 13. 48.38 (4) (c) of the statutes is amended to read:

7 48.38 (4) (c) The location and type of facility in which the child is currently held
8 or placed, and the location and type of facility in which the child will be placed. If
9 the child is or will be placed in a foster home or treatment foster home, the
10 information specified in this paragraph may not be disclosed to the child's parent or
11 guardian or to any other adult relative of the child without the consent of the foster
12 parent or treatment foster parent under s. 48.62 (3m).

13 SECTION 14. 48.62 (3m) of the statutes is created to read:

14 48.62 (3m) The name, other than the first name, and address of a person
15 licensed to operate a foster home or treatment foster home may not be disclosed to
16 the parent or guardian of a child placed in the home or to any other adult relative of
17 the child without the written consent of the licensee. When the department, a county
18 department, or a child welfare agency issues a license to operate a foster home or
19 treatment foster home, the department, county department, or child welfare agency
20 shall notify the licensee of that confidentiality requirement. A person licensed to
21 operate a foster home or a treatment foster home may consent to the disclosure of his
22 or her full name and address to the parent or guardian of a child placed in the person's
23 care or to an adult relative of the child by submitting a signed and dated statement
24 to the department, county department, or child welfare agency stating the name of
25 the child and indicating that the person consents to the disclosure of that information

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1 to the parent, guardian, or other adult relative. Consent under this subsection shall
2 be given individually with respect to each child in the care of a licensee, except that
3 a licensee may provide one consent covering all members of a sibling group in the care
4 of the licensee.

5 **SECTION 15.** 48.78 (2) (a) of the statutes is amended to read:

6 ~~48.78 (2) (a)~~ No agency may make available for inspection or disclose the
7 contents of any record kept or information received about an individual in its care
8 or legal custody, except as provided under s. ~~48.357 (2r) (b)~~, 48.371, 48.38 (5) (b) or
9 (d) or (5m) (d), 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.51,
10 or 938.78 or by order of the court.

11 **SECTION 16.** 48.78 (2) (ag) of the statutes is amended to read:

12 48.78 (2) (ag) Paragraph (a) does not prohibit an agency from making available
13 for inspection or disclosing the contents of a record, upon the request of the parent,
14 guardian, or legal custodian of the child who is the subject of the record or upon the
15 request of the child, if 14 years of age or over, to the parent, guardian, legal custodian,
16 or child, unless the record discloses information that is confidential under s. 48.62
17 (3m) or the agency determines that inspection of the record by the child, parent,
18 guardian, or legal custodian would result in imminent danger to anyone.

19 **SECTION 17.** 48.78 (2) (aj) of the statutes is amended to read:

20 48.78 (2) (aj) Paragraph (a) does not prohibit an agency from making available
21 for inspection or disclosing the contents of a record, upon the request of a parent,
22 guardian, or legal custodian of a child expectant mother of an unborn child who is
23 the subject of the record, upon the request of an expectant mother of an unborn child
24 who is the subject of the record, if 14 years of age or over, or upon the request of an
25 unborn child by the unborn child's guardian ad litem to the parent, guardian, legal

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1 custodian, expectant mother, or unborn child by the unborn child's guardian ad
2 litem, unless the record discloses information that is confidential under s. 48.62 (3m)
3 or the agency determines that inspection of the record by the parent, guardian, legal
4 custodian, expectant mother, or unborn child by the unborn child's guardian ad litem
5 would result in imminent danger to anyone.

6 **SECTION 18.** 48.78 (2) (am) of the statutes is amended to read:

7 48.78 (2) (am) Paragraph (a) does not prohibit an agency from making
8 available for inspection or disclosing the contents of a record, upon the written
9 permission of the parent, guardian, or legal custodian of the child who is the subject
10 of the record or upon the written permission of the child, if 14 years of age or over,
11 to the person named in the permission if the parent, guardian, legal custodian, or
12 child specifically identifies the record in the written permission, unless the record
13 discloses information that is confidential under s. 48.62 (3m) or the agency
14 determines that inspection of the record by the person named in the permission
15 would result in imminent danger to anyone.

16 **SECTION 19.** 48.78 (2) (ap) of the statutes is amended to read:

17 48.78 (2) (ap) Paragraph (a) does not prohibit an agency from making available
18 for inspection or disclosing the contents of a record, upon the written permission of
19 the parent, guardian, or legal custodian of a child expectant mother of an unborn
20 child who is the subject of the record, or of an expectant mother of an unborn child
21 who is the subject of the record, if 14 years of age or over, and of the unborn child by
22 the unborn child's guardian ad litem, to the person named in the permission if the
23 parent, guardian, legal custodian, or expectant mother, and unborn child by the
24 unborn child's guardian ad litem, specifically identify the record in the written
25 permission, unless the record discloses information that is confidential under s.

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1 ~~48.62 (3m)~~ or the agency determines that inspection of the record by the person
2 named in the permission would result in imminent danger to anyone.

3 SECTION 20. 938.293 (2) of the statutes is amended to read:

4 938.293 (2) RECORDS RELATING TO JUVENILE. All records relating to a juvenile
5 ~~which that~~ are relevant to the subject matter of a proceeding under this chapter shall
6 be open to inspection by a guardian ad litem or counsel for any party ~~or by counsel~~
7 ~~for any foster parent, treatment foster parent, or other physical custodian described~~
8 ~~in s. 938.357 (2r) (b), upon demand and upon presentation of releases where when~~
9 necessary, at least 48 hours before the proceeding. Persons entitled to inspect the
10 records may obtain copies of the records with the permission of the custodian of the
11 records or with the permission of the court. The court may instruct counsel not to
12 disclose specified items in the materials to the juvenile ~~or, the parent, or the~~
13 ~~juvenile's foster parent, treatment foster parent, or other physical custodian~~
14 ~~described in s. 938.357 (2r) (b) if the court reasonably believes that the disclosure~~
15 would be harmful to the interests of the juvenile. Section 971.23 shall be applicable
16 in all delinquency proceedings under this chapter, except that the court shall
17 establish the timetable for the disclosures required under s. 971.23 (1), (2m), (8), and
18 (9).

19 SECTION 21. 938.295 (1) (b) of the statutes is amended to read:

20 938.295 (1) (b) The court shall hear any objections by the juvenile ~~and, the~~
21 juvenile's parents, guardian, or legal custodian, ~~or the juvenile's foster parent,~~
22 ~~treatment foster parent, or other physical custodian described in s. 938.357 (2r) (b)~~
23 to the request under par. (a) for an examination or assessment before ordering the
24 examination or assessment.

25 SECTION 22. 938.295 (3) of the statutes is amended to read:

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1 938.295 (3) OBJECTION TO A PARTICULAR PROFESSIONAL. If the juvenile or, a
2 parent, or the juvenile's foster parent, treatment foster parent, or other physical
3 custodian described in s. 938.357 (2r) (b) objects to a particular physician,
4 psychiatrist, licensed psychologist, or other expert, the court shall appoint a different
5 physician, psychiatrist, psychologist, or other expert.

6 SECTION 23. 938.33 (5) of the statutes is amended to read:

7 938.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT;
8 CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment
9 foster home, and the name of the foster parent or treatment foster parent is not
10 available at the time the report is filed, the agency shall provide the court and the
11 juvenile's parent or guardian with the name and address of the foster parent or
12 treatment foster parent within 21 days after the dispositional order is entered. If the
13 foster parent or treatment foster parent has consented under s. 48.62 (3m) to the
14 disclosure of that information to the juvenile's parent or guardian or to any other
15 adult relative of the juvenile, the agency shall also provide that information to that
16 parent, guardian, or adult relative within those 21 days, except that the court may
17 order the information withheld from the juvenile's that parent or, guardian, or adult
18 relative if the court finds that disclosure would result in imminent danger to the
19 juvenile or to the foster parent or treatment foster parent. After notifying the
20 juvenile's that parent or, guardian, or adult relative, the court shall hold a hearing
21 prior to ordering the information withheld.

22 SECTION 24. 938.355 (2) (b) 2. of the statutes is amended to read:

23 938.355 (2) (b) 2. If the juvenile is placed outside the home, the name of the
24 place or facility, including transitional placements, where the juvenile shall be cared
25 for or treated, except that if the placement is a foster home or treatment foster home

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1 and the name and address of the foster parent or treatment foster parent is not
2 available at the time of the order, the name and address of the foster parent or
3 treatment foster parent shall be furnished to the court and the parent within 21 days
4 of the order. If the foster parent or treatment foster parent has consented under s.
5 48.62 (3m) to the disclosure of that information to the juvenile's parent or guardian
6 or to any other adult relative of the juvenile, the agency shall also provide that
7 information to that parent, guardian, or adult relative within those 21 days, except
8 that the judge may order that information to be withheld from the juvenile's parent
9 or guardian as provided in this subdivision. If, after a hearing on the issue with due
10 notice to the parent ~~or~~ guardian, ~~or adult relative~~, the court finds that disclosure of
11 the identity of the foster parent or treatment foster parent would result in imminent
12 danger to the juvenile, the foster parent, or the treatment foster parent, the court
13 may order the name and address of the prospective foster parents or treatment foster
14 parents withheld from the parent ~~or~~ guardian, ~~or adult relative~~.

15 SECTION 25. 938.357 (1) (am) 1. of the statutes is amended to read:

16 938.357 (1) (am) 1. If the proposed change in placement involves any change
17 in placement other than a change in placement under par. (c), the person or agency
18 primarily responsible for implementing the dispositional order or the district
19 attorney shall cause written notice of the proposed change in placement to be sent
20 to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any
21 foster parent, treatment foster parent, or other physical custodian described in s.
22 48.62 (2) of the juvenile. The notice shall contain the name and address of the new
23 placement, the reasons for the change in placement, a statement describing why the
24 new placement ~~is preferable to the present placement~~ would be in the best interests

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1 ~~of the juvenile~~, and a statement of how the new placement satisfies objectives of the
2 treatment plan ordered by the court.

3 **SECTION 26.** 938.357 (1) (am) 2. of the statutes is amended to read:

4 938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of
5 a specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain
6 a hearing on the matter by filing an objection with the court within 10 days after
7 receipt of the notice. Placements may not be changed until 10 days after that notice
8 is sent to the court unless the parent, guardian, or legal custodian and the juvenile,
9 if 12 or more years of age, sign written waivers of objection, except that changes in
10 placement that were authorized in the dispositional order may be made immediately
11 if notice is given as required under subd. 1. In addition, a hearing is not required for
12 placement changes authorized in the dispositional order except when an objection
13 filed by a person who received notice alleges that new information is available that
14 affects the advisability of the court's dispositional order.

15 **SECTION 27.** 938.357 (1) (c) 1. of the statutes is amended to read:

16 938.357 (1) (c) 1. If the proposed change in placement would change the
17 placement of a juvenile placed in the home to a placement outside the home, the
18 person or agency primarily responsible for implementing the dispositional order or
19 the district attorney shall submit a request for the change in placement to the court.
20 The request shall contain the name and address of the new placement, the reasons
21 for the change in placement, a statement describing why the new placement is
22 ~~preferable to the present placement would be in the best interests of the juvenile~~, and
23 a statement of how the new placement satisfies objectives of the treatment plan
24 ordered by the court. The request shall also contain specific information showing
25 that continued placement of the juvenile in his or her home would be contrary to the

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1 welfare of the juvenile and, unless any of the circumstances under s. 938.355 (2d) (b)
2 1. to 4. applies, specific information showing that the agency primarily responsible
3 for implementing the dispositional order has made reasonable efforts to prevent the
4 removal of the juvenile from the home, while assuring that the juvenile's health and
5 safety are the paramount concerns.

6 **SECTION 28.** 938.357 (2m) (a) of the statutes is amended to read:

7 938.357 (2m) (a) *Request; information required.* The juvenile, the parent,
8 guardian, or legal custodian of the juvenile, or any person or agency primarily bound
9 by the dispositional order, other than the person or agency responsible for
10 implementing the order, may request a change in placement under this paragraph.
11 The request shall contain the name and address of the new placement requested and
12 shall state what new information is available that affects the advisability of the
13 current placement and why the new placement would be in the best interests of the
14 juvenile. If the proposed change in placement would change the placement of a
15 juvenile placed in the home to a placement outside the home, the request shall also
16 contain specific information showing that continued placement of the juvenile in the
17 home would be contrary to the welfare of the juvenile and, unless any of the
18 circumstances under s. 938.355 (2d) (b) 1. to 4. applies, specific information showing
19 that the agency primarily responsible for implementing the dispositional order has
20 made reasonable efforts to prevent the removal of the juvenile from the home, while
21 assuring that the juvenile's health and safety are the paramount concerns. The
22 request shall be submitted to the court. The court may also propose a change in
23 placement on its own motion.

24 **SECTION 29.** 938.357 (2m) (b) of the statutes is amended to read:

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1 938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior
2 to ordering any change in placement requested or proposed under par. (a) if the
3 request states that new information is available that affects the advisability of the
4 current placement and why the new placement would be in the best interests of the
5 child. A hearing is not required if the requested or proposed change in placement
6 does not involve a change in placement of a juvenile placed in the home to a
7 placement outside the home, written waivers of objection to the proposed change in
8 placement are signed by all parties entitled to receive notice under sub. (1) (am) 1.,
9 and the court approves. If a hearing is scheduled, the court shall notify the juvenile,
10 the parent, guardian, and legal custodian of the juvenile, any foster parent,
11 treatment foster parent, or other physical custodian described in s. 48.62 (2) of the
12 juvenile, and all parties who are bound by the dispositional order at least 3 days prior
13 to the hearing. A copy of the request or proposal for the change in placement shall
14 be attached to the notice. If all of the parties consent, the court may proceed
15 immediately with the hearing.

16 **SECTION 30.** 938.357 (2r) of the statutes is renumbered 938.357 (2r) (a) and
17 amended to read:

18 938.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the
19 change in placement would remove a juvenile from a foster home, treatment foster
20 home, or other placement with a physical custodian described in s. 48.62 (2), the court
21 shall give the foster parent, treatment foster parent, or other physical custodian an
22 opportunity to be heard at the hearing by permitting the foster parent, treatment
23 foster parent, or other physical custodian to make a written or oral statement during
24 the hearing or to submit a written statement prior to the hearing relating to the
25 juvenile and the requested change in placement.

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SECTION 30

1 (c) A foster parent, treatment foster parent, or other physical custodian who
2 receives notice of a hearing under sub. (1) (am) 1. or (2m) (b) and an opportunity to
3 be heard under ~~this subsection~~ par. (a) or (b) does not become a party to the
4 proceeding on which the hearing is held solely on the basis of receiving that notice
5 and opportunity to be heard.

6 **SECTION 31.** 938.357 (2r) (b) of the statutes is created to read:

7 938.357 (2r) (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the
8 change in placement would remove a juvenile from a foster home, treatment foster
9 home, or other placement with a physical custodian described in s. 48.62 (2) in which
10 the juvenile has been placed for a total of 4 or more years, the foster parent, treatment
11 foster parent, or other physical custodian, in addition to having the opportunity to
12 be heard as described in par. (a), may be represented by counsel, may request an
13 examination or assessment of the child under s. 938.295 by an expert of the foster
14 parent's, treatment foster parent's, or other physical custodian's own choosing, may
15 present evidence relative to the issue of placement, including expert testimony, may
16 confront and cross-examine witnesses, and may make alternative placement
17 recommendations. In addition, counsel for the foster parent, treatment foster
18 parent, or other physical custodian may, notwithstanding s. 938.78 (2) (a), inspect
19 and obtain copies of all records relating to the juvenile that are relevant to the issue
20 of placement as provided under s. 938.293.

21 **SECTION 32.** 938.38 (4) (c) of the statutes is amended to read:

22 938.38 (4) (c) The location and type of facility in which the juvenile is currently
23 held or placed, and the location and type of facility in which the juvenile will be
24 placed. If the juvenile is or will be placed in a foster home or treatment foster home,
25 the information specified in this paragraph may not be disclosed to the juvenile's

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1 parent or guardian or to any other adult relative of the juvenile without the consent
2 of the foster parent or treatment foster parent under s. 48.62 (3m).

3 SECTION 33. 938.78 (2) (a) of the statutes is amended to read:

4 938.78 (2) (a) No agency may make available for inspection or disclose the
5 contents of any record kept or information received about an individual who is or was
6 in its care or legal custody, except as provided under sub. (3) or s. 938.357 (2r) (b),
7 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the court.

8 SECTION 34. 938.78 (2) (ag) of the statutes is amended to read:

9 938.78 (2) (ag) Paragraph (a) does not prohibit an agency from making
10 available for inspection or disclosing the contents of a record, upon the request of the
11 parent, guardian, or legal custodian of the juvenile who is the subject of the record
12 or upon the request of the juvenile, if 14 years of age or older, to the parent, guardian,
13 legal custodian, or juvenile, unless the record discloses information that is
14 confidential under s. 48.62 (3m) or the agency finds that inspection of the record by
15 the juvenile, parent, guardian, or legal custodian would result in imminent danger
16 to anyone.

17 SECTION 35. 938.78 (2) (am) of the statutes is amended to read:

18 938.78 (2) (am) Paragraph (a) does not prohibit an agency from making
19 available for inspection or disclosing the contents of a record, upon the written
20 permission of the parent, guardian, or legal custodian of the juvenile who is the
21 subject of the record or upon the written permission of the juvenile, if 14 years of age
22 or older, to the person named in the permission if the parent, guardian, legal
23 custodian, or juvenile specifically identifies the record in the written permission,
24 unless the record discloses information that is confidential under s. 48.62 (3m) or the

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1 agency determines that inspection of the record by the person named in the
2 permission would result in imminent danger to anyone.

3 **SECTION 36. Initial applicability.**

4 (1) **CHANGES IN PLACEMENT.** The treatment of sections 48.293 (2), 48.295 (1) and
5 (3), 48.357 (1) (am) 1. and 2. and (c) 1. and (2m) (a) and (b), 48.78 (2) (a), 938.293 (2),
6 938.295 (1) (b) and (3), 938.357 (1) (am) 1. and 2. and (c) 1. and (2m) (a) and (b), and
7 938.78 (2) (a) of the statutes, the renumbering and amendment of sections 48.357 (2r)
8 and 938.357 (2r) of the statutes, and the creation of sections 48.357 (2r) (b) and
9 938.357 (2r) (b) of the statutes first applies to a change of placement requested on the
10 effective date of this subsection.

11 (2) **FOSTER PARENT CONFIDENTIALITY.** The treatment of sections 48.33 (5), 48.355
12 (2) (b) 2., 48.38 (4) (c), 48.62 (3m), 48.78 (2) (ag), (aj), (am), and (ap), 938.33 (5),
13 938.355 (2) (b) 2., 938.38 (4) (c), and 938.78 (2) (ag) and (am) of the statutes first
14 applies to a person that is issued a license to operate a foster home or treatment foster
15 home on the effective date of this subsection.

16

(END)

or whose license is
renewed after the effective
date of this subsection.